

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

CALVIN PAGE,

Plaintiff,

v.

Case Number 11-10077-BC
Honorable Thomas L. Ludington

ZIMMER, INC., ZIMMER HOLDINGS, INC.,
and ZIMMER US, INCORPORATED,

Defendants.

_____ /

ORDER EXTENDING TIME TO SERVE DEFENDANTS

This product liability action was initially filed by Plaintiff Calvin Page on January 7, 2011. Subsequent to the filing of this action, summons were issued but have not been served upon Defendants. In his response to the Court's order to show cause, Plaintiff explains that waivers of citation were prepared in lieu of serving summons but inadvertently were not sent to Defendants via certified mail in accordance with the Federal Rules of Civil Procedure. Defendants thus have not been served and not yet appeared in this matter. Plaintiff now requests that the Court extend the time to serve Defendants.

Federal Rule of Civil Procedure 6(b)(1)(B) provides that "[w]hen an act may or must be done within a specified time, the court may, for good cause, extend the time: . . . (b) on motion made after the time has expired if the party failed to act because of excusable neglect." Good cause exists when the trial court, in its discretion, finds excusable neglect. *See Lujan v. Nat'l Wildlife Fed'n*, 497 U.S. 871, 895 (1990). Excusable neglect may be found where the relevant circumstances reveal inadvertent delays, mistakes, or carelessness of counsel. *Pioneer Inv. Servs. Co. v. Brunswick Assocs.*, 507 U.S. 380, 391(1993). Excusable neglect encompasses even the negligence of counsel.

Id. Plaintiff has explained that the delay in serving Defendants was not done intentionally or in bad faith, but due to inadvertence. The Court will thus grant Plaintiff's request to extend the time to serve Defendants.

Accordingly, it is **ORDERED** that Plaintiff's request to extend the time for service is **GRANTED** and the time for service is extended until September 19, 2011.

It is further **ORDERED** that the Court's order to show cause (ECF No. 7) is **DISMISSED**

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: September 1, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 1, 2011.

s/Tracy A. Jacobs
TRACY A. JACOBS